

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
	)	
<b>vs.</b>	)	<b>CRIMINAL ACTION 09-00006-KD</b>
	)	
<b>MELISSA B. GRAY,</b>	)	
	)	
<b>Defendant.</b>	)	

**ORDER FOR PSYCHIATRIC EXAMINATION OF DEFENDANT**  
**PURSUANT TO 18 U.S.C. § 4241**

This matter is before the court on defendant Melissa Gray's motion to determine competency wherein defendant moves the court for a determination of her mental competency on basis that she has not been able to assist in the preparation of her defense and that she has been diagnosed with a mental disorder (doc. 47). The motion was heard on April 24, 2009, and defendant, her counsel Neil Hanley and Assistant United States Attorney Sean Costello appearing on behalf of the United States, were present. At the hearing, defendant provided the court with a report of the psychological evaluation performed by Dr. Thomas Bennett and Dr. Bennett testified at the hearing.

Defendant's motion falls under 18 U.S.C. § 4241, which provides in part,

At any time after the commencement of a prosecution for an offense and prior to the sentencing of the defendant, the defendant or the attorney for the Government may file a motion for a hearing to determine the mental competency of the defendant. The court shall grant the motion, or shall order such a hearing on its own motion, if there is reasonable cause to believe that the defendant may presently be suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense.

18 U.S.C. § 4241(a).

Defendant has not yet been sentenced, thus the motion pursuant to 18 U.S.C. § 4241(a) is

appropriate. Therefore, upon consideration, and for reasons more fully set forth on the record, the Court finds that there is reasonable cause to believe that the defendant Gray may be suffering from a mental disease or defect which renders her mentally incompetent such that she cannot assist properly in her defense. Accordingly, the motion for psychiatric examination to determine her competency in this regard is **GRANTED**.

Accordingly, it is **ORDERED** as follows:

That defendant, Melissa Gray, be transferred to a facility designated by the Bureau of Prisons for an examination to be completed as promptly as possible, but not to exceed forty-five (45) days,<sup>1</sup> for a determination of her mental competency as to whether she is suffering from a mental disease or defect rendering her mentally incompetent to the extent that she is unable to assist properly in her defense. The determination shall be made by at least one qualified psychiatrist or psychologist under the provisions of 18 U.S.C. §§ 4241 and 4247 for such determination. The examination period will commence once the defendant has reached the designated facility.

The United States Marshal for this District shall serve a copy of this Order on the defendant, and the Clerk of the Court shall provide a copy hereof to the United States Attorney and to the defendant's attorney of record, Neil Hanley.

The United States Attorney is **ORDERED** to forward to the designated facility a summary letter setting forth a full exposition concerning the alleged crime, together with all background information on the accused, including her history of any criminal convictions and any prior history of mental illness. Defense counsel is **ORDERED** to forward to the designated

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<sup>1</sup> The court may order the defendant committed for this purpose for up to thirty (30) days, with a fifteen (15) day extension "upon a showing of good cause by the examiner that the additional time is necessary to observe and evaluate the defendant". 18 U.S.C. § 4247(b).

facility any pertinent information and records available concerning the defendant's background and prior evaluation, diagnosis and treatment for any mental illness.

Within fifteen (15) days of the last date of examination, the examining physician shall submit a written report to this Court comporting with 18 U.S.C. § 4247(c), containing the examiner's findings regarding the mental competency of the defendant in accordance with this Order. Copies of the report shall be provided to counsel for the defendant and to the attorney for the Government.

The United States Marshal is **directed** to notify this court immediately upon defendant's return to this District.

**Accordingly, all deadlines and hearings previously set, if any, are held in abeyance pending defendant's return to this District.**

DONE this the 24th day of April, 2009.

s / Kristi K. DuBose  
**KRISTI K. DuBOSE**  
**UNITED STATES DISTRICT JUDGE**